

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

Valassis NSA

Docket No. MC2012-14

Valassis NSA

Docket No. R2012-8

NOTICE OF INQUIRY NO. 1

(Issued June 15, 2012)

On April 30, 2012, the Postal Service filed a request to add a negotiated service agreement (NSA) with Valassis Direct Mail, Inc. (Valassis) to the market dominant product list.¹ The Request must satisfy the requirements set forth in 39 U.S.C. 3622 and 3642, as well as 39 CFR 3010 and 3020 *et seq.*

The Request generated substantial opposition from over 40 commenters. The commenters contend that the Valassis NSA does not satisfy the requirements of 39 U.S.C. 3642 (requiring, among other things, that the Postal Service give due regard to the likely impact of its actions on small business concerns)² and 39 U.S.C. 3622(c)(10), under which special mail classifications such as the Valassis NSA must, among other things; improve the net financial position of the Postal Service, not cause unreasonable harm to the marketplace, and be made available to similarly situated

¹ Notice of the United States Postal Service of Filing of Contract and Supporting Data and Request to Add Valassis Direct Mail, Inc. Negotiated Service Agreement to the Market-Dominant Product List, April 30, 2012 (Notice).

² See, e.g., Valpak Direct Marketing Systems, Inc. and Valpak Dealers' Association, Inc. Initial Comments, May 23, 2012, at 18.

mailers.³ The Postal Service disputes the commenters' assertions in its reply comments.⁴

Based on its review of the record, the Commission concludes that neither the claims of the Postal Service nor those who oppose the Valassis NSA have yet been fully developed.

Pursuant to 39 CFR 3020.34(d), the Commission is issuing this Notice of Inquiry to afford all interested persons an opportunity to provide additional material on relevant issues. Respondents are urged to more fully support their respective positions with quantitative information and affidavits of responsible officials. Responses may be filed under seal as applicable.⁵ Responses to these questions are due June 22, 2012.

1. Pursuant to 39 U.S.C. 3622(c)(10)(B), the Commission must determine if the Valassis NSA would "cause unreasonable harm to the marketplace." Please identify the relevant marketplace concerning the Valassis NSA. Include a statement of supporting justification.
2. To assist the Commission in determining the Valassis NSA's financial impact on the Postal Service as required by 39 U.S.C. 3622(c)(10)(A)(i):
 - a. Please provide a quantitative analysis of the expected loss in contribution primarily attributable to the Valassis NSA (in pieces and postage pounds), including lost revenues from mailers that are not a party to the agreement. Please include all supporting workpapers.

³ See, e.g., Comments of National Newspaper Association, Inc. on the Postal Service's Proposed Negotiated Service Agreement with Valassis, Inc., May 23, 2012, at 8-11; Comments of the Public Representative in Response to Order No. 1330, May 24, 2012, at 5-7.

⁴ United States Postal Service Reply Comments, June 1, 2012.

⁵ Participants are reminded to file an accompanying Application for Non-Public Treatment of Materials Filed Under Seal.

- b. For each contract year that the Valassis NSA is scheduled to be in effect, please provide estimates of Total Mail Coverage (TMC) volumes (in pieces and postage pounds) currently delivered by the Postal Service that are likely to be diverted to private (nonpostal) carriers primarily as a result of the Valassis NSA. Explain the basis for your estimates.
3. In its Notice, the Postal Service states “[s]aturation mailers are increasingly looking to private delivery options, and newspapers are extending their reach through Total Market Coverage and Sunday Select (distribution to non-subscribers) delivered via nonpostal carriers.” Notice at 3. Please provide any available data on the diversion of advertisement circulars that were historically delivered by the Postal Service that are now delivered by private (nonpostal) carriers.
4. Please explain the availability and nature of enterprises in the private sector engaged in the delivery of advertisements for firms that sell or distribute semi-durable and durable goods nationally. See 39 U.S.C. 3642(b)(3)(A).
5. Please provide information regarding the views of those who sell or distribute semi-durable and durable goods nationally, and/or those who sell or distribute advertising for firms that sell or distribute semi-durable and durable goods nationally on the appropriateness of the Valassis NSA. See 39 U.S.C. 3642(b)(3)(B).
6. For purposes of this question, a small business concern is one that is in conformance with the requirements of section 3 of the Small Business Act. See 39 U.S.C. 3641(h).
 - a. If your organization qualifies as a small business under the Small Business Act, please indicate whether your organization sells or distributes semi-durable and durable goods nationally or sells or

distributes advertising for firms that sell or distribute semi-durable and durable goods nationally.

- b. Please provide specific examples of small business concerns likely to be impacted by the Valassis NSA, and discuss how representative those examples are of other small business likely to be impacted by the Valassis NSA. See 39 U.S.C 3642(b)(3)(C).
7. Please discuss the meaning of a “similarly situated mailer” under 39 U.S.C. 3622(c)(10) as it relates to the Valassis NSA.
8. Please discuss whether each of these currently market-dominant subproducts would qualify as a competitive product under 39 U.S.C. 3642(b)(1).
- a. Saturation Flats.
 - b. Saturation Parcels.
 - c. High Density Flats.
 - d. High Density Parcels.

QUESTIONS FOR COMMENTERS CRITICAL OF THE VALASSIS NSA

9. For commenters alleging that the Valassis NSA would potentially cause them unreasonable harm, please provide the portion of your annual advertising revenue for the last two fiscal years which has come from advertising inserts for durable and semi-durable goods sold by companies that operated in 30 or more states.

10. For commenters alleging that the Valassis NSA would cause a net financial loss to the Postal Service due to lost TMC revenue, please provide the number of pieces and total postage pounds of TMC advertising inserts displaying durable and semi-durable goods sold by companies operating in 30 or more states, which, during the last 12 months, your organization:

- a. Distributed via the Postal Service; and/or
- b. Distributed via private delivery carriers or through other delivery methods.

As used in this question, the term “advertising inserts” refers to advertising that is separate and physically segregated from a publication.

QUESTIONS FOR UNITED STATES POSTAL SERVICE

11. In its response to CHIR No. 2, question 1, the Postal Service states that “no other mailers that have shared mail program volumes of 400 million pieces annually mailed to 50 percent of existing SCF areas are currently identified. However, to the extent that other mailers can demonstrate the same abilities to quickly satisfy the needs of those targeted advertisers, the USPS would be willing to discuss a similar NSA.”

- a. What specifically does a mailer need to do to demonstrate the same abilities to quickly satisfy the needs of advertisers targeted by the Valassis NSA?
- b. If the same abilities are demonstrated, would the Postal Service consider this mailer to be similarly situated under the terms of 39 U.S.C. 3622(c)(10)?

12. May qualifying mail pieces sent under the Valassis NSA be tailored to specific markets or must the identical mail piece be sent to all markets included in a mailing?

By the Commission.

Shoshana M. Grove
Secretary